

Case No. 12-35266

IN THE UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

THE INSTITUTE OF CETACEAN
RESEARCH, a Japanese research
foundation; KYODO SENPAKU
KAISHA, LTD., a Japanese corporation;
TOMOYUKI OGAWA, an individual;
and TOSHIYUKI MIURA, an individual,

Plaintiffs-Appellants,

v.

SEA SHEPHERD CONSERVATION
SOCIETY, an Oregon nonprofit
corporation, and PAUL WATSON, an
individual,

Defendants-Appellees.

SEA SHEPHERD CONSERVATION
SOCIETY, an Oregon nonprofit
corporation,

Counterplaintiff,

v.

THE INSTITUTE OF CETACEAN
RESEARCH, a Japanese research
foundation; KYODO SENPAKU
KAISHA, LTD., a Japanese corporation;
and HIROYUKI KOMURA, an
individual,

Counterdefendants.

D.C. No. 2:11-cv-02043-RAJ
Western District of Washington,
Seattle

Date of Amended Opinion:
May 24, 2013

**Date of Opinion on Motion for
Contempt:** December 19, 2014

Panel Members:
Kozinski; Tashima; M. Smith, CJJ

Appellate Commissioner:
Peter L. Shaw

PLAINTIFFS THE INSTITUTE OF
CETACEAN RESEARCH AND
KYODO SENPAKU KAISHA, LTD.'S
REQUEST FOR AN AWARD OF
DAMAGES DUE TO CONTEMPT

Pursuant to the Court's Opinion (Dkt. No. 360), plaintiffs The Institute of Cetacean Research and Kyodo Senpaku Kaisha, Ltd., request an award of damages as a result of contempt, including attorney fees and costs, wasted expenses, and other damages, against defendants Sea Shepherd Conservation Society ("SSCS") and Paul Watson, together with former directors of SSCS,¹ jointly and severally, as follows, together with prejudgment interest thereon:

I. Attorney Fees and Expenses through 10/28/2014: \$2,029,770.64

- A. *See* Exhibits A, A1, and A2.²
- B. When appropriate, this request will be supplemented to request attorney fees and costs associated with recovering attorney fees and costs, damages, and wasted expenses.
- C. To the extent applicable, the costs of the reference, in an amount to be determined.

II. Damages: \$108,159.98

See Exhibit B, which specifies repair costs to NISSHIN MARU arising from contempt.

¹ The former directors are Lani Blazier, Marnie Gaede, Peter Rieman, Bob Talbot, Robert Wintner, and Ben Zuckerman.

² All exhibits are attached to the declaration of John F. Neupert dated March 11, 2015, filed concurrently with this request.

III. Wasted Expenses: \$1,984,211.57

- A. Wasted charter fees for NM, YS, and YS2—
see Exhibit C (\$1,650,527.80).
- B. Wasted fuel for NM, YS, and YS2—
see Exhibit D (\$193,661.77).
- C. Extended charter fees for SUN LAUREL—
see Exhibit E (\$90,980).
- D. Bunker fees for extended SUN LAUREL charter—
see Exhibit F (\$49,042).

TOTAL \$4,122,142.19

DATED: March 11, 2015

MILLER NASH GRAHAM & DUNN LLP

s/ John F. Neupert

M. CHRISTIE HELMER
Washington State Bar No. 41171
JOHN F. NEUPERT, P.C.
Washington State Bar No. 39883
111 S.W. Fifth Avenue, Suite 3400
Portland, Oregon 97204
Telephone: (503) 224-5858 or (206) 624-8300

70006310.7

Attorneys for Plaintiffs-Appellants

9th Circuit Case Number(s): 12-35266

CERTIFICATE OF SERVICE

When All Case Participants are Registered for the Appellate CM/ECF System

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system on March 11, 2015.

I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

s/ John F. Neupert

John F. Neupert, P.C.

Of Attorneys for Plaintiffs-Appellants